

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 1530 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

BHARWAD DEVA RATNA

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Appearance:

Ms. B.R. Gajjar, A.P.P. for appellant.

Respondents -served.

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 24/09/97

ORAL JUDGEMENT

This acquittal appeal is filed against the order of acquittal passed by the learned Judicial Magistrate, First Class, Bajana, District Surendranagar, in Criminal Case No. 82/84.

The case against the respondents/accused was that on 19.1.1984 at about 3 P.M. the complainant along with witness Khushal Bhudarbhai had seen the accused grazing

cattle in the field belonging to the complainant and, therefore, he protested and that resulted into scuffle where the complainant received injuries. The charge was under Section 161 and 162 of the Gujarat Panchayats Act, 1961 and under Sections 323 and 504 of the Indian Penal Code.

The complainant has been disbelieved because though he claimed to have received fist blows and kick blows as well, there is no supporting medical evidence.

This weakness is further reinforced by the attempt on the part of the eye witness Khushalbhai Bhudarbhai, Ex.9 who tries to exaggerate the incident. According to him, the complainant was beaten more than once and he having fall down when the complainant got up again he was beaten which fact is not stated even by the complainant. This has led the learned Magistrate to infer that the said witness is really not an eye witness. So far as the alleged damage to the crop is concerned, where again the panchas except saying that they have signed the panchnama, the testimony of the Panch Somabhai Mavji, Ex.10, does not lend much of support. Contrary versions set out by the complainant and the so-called eye witness has, therefore, resulted into acquittal. This conclusion of the learned Magistrate cannot be said to be unwarranted on the material on record. The said view being possible, it is not required to be interfered with. The appeal is, therefore, dismissed.

(ers)